

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46390 of 2021

Arising Out of PS. Case No.-120 Year-2021 Thana- BARGAINIA District- Sitamarhi

Ajay Kumar S/o- Bindeshwari Mahto Resident of village - Ashogi Ward no. 2, P.S. - Bairstania, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 49240 of 2021

Arising Out of PS. Case No.-120 Year-2021 Thana- BARGAINIA District- Sitamarhi

Dhan Prasad Dangol @ Santosh Shresth S/o Govind Bahadur Dangol @ Santosh R/o village- Gaur, Ward No. 3, P.S.- Gaur, District- Rauthat (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 59012 of 2021

Arising Out of PS. Case No.-120 Year-2021 Thana- BARGAINIA District- Sitamarhi

Kamod Mukhiya Son of Soman Mukhiya Resident of Village - Gaur, Ward No.2, P.s.- Gaur, Distt.- Rauthat (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 46390 of 2021)

For the Petitioner/s : Mr. Virendra Kumar, Adv.

For the Opposite Party/s : Mr. Surendra Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 49240 of 2021)

For the Petitioner/s : Mr. Subodh Kumar, Adv.

For the Opposite Party/s : Mr. Udaychand Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 59012 of 2021)

For the Petitioner/s : Mr. Ashok Kumar Jha, Adv.

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

11 22-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with Baorgamoa P.S. Case No. 120 of 2021 lodged under Section 414 of the I.P.C. read with Section 18A, 28 and 36 A C of the Drugs and Cosmetic Act.

Learned counsel for the petitioners submit that vide order dated 17.05.2022, provisional bail was granted to them. Considering and discussing the entire case conclusively on the point that the said Seizure was without jurisdiction and no complain was filed in accordance with the provisions of the Drugs and Cosmetic Act.

In addition to that vide order dated 27.07.2022, this Court has acknowledged that an F.I.R. was lodged under Section 414 of I.P.C. read with Section 18A, 28 and 36 of the Drugs and Cosmetic Act, 1940. Learned counsel for the petitioners submits that the present case is not covered under Section 414 of I.P.C. and there is a special law which has been made to deal with all situations relating to Drugs and Cosmetic Act. Learned counsel further submits that Section 18A and 36 of the Drugs and

Cosmetic Act are not a penal section, the only penal Section is Section 28 and in Section 28, the maximum punishment is one year or with fine which shall not be less than Rs. 20,000/- or with both.

Learned counsel submits that petitioners were in custody since 17.06.2021 having clean antecedent and released on provisional bail on 17.05.2022 meaning thereby they have continued in jail for about 11 months.

In the present facts and circumstances of this case and the submissions made above, let the provisional bail applications granted to the petitioners are hereby confirmed.

With this observation, All the three bail applications are disposed off.

(Dr. Anshuman, J.)

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